

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

MAY 14 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 12-90140, 12-90141,
12-90142, 12-90143, 12-90144,
12-90145, 12-90146, 12-90147,
12-90148, 12-90149, 12-90150
and 12-90151

ORDER

REINHARDT, Circuit Judge¹:

A pro se litigant alleges that seven circuit judges and five district judges conspired to “fabricate dismissals” of his previous misconduct charges and to intimidate him into abandoning his underlying case. Adverse rulings are not proof of conspiracy. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). Further, complainant provides no objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support allegations of conspiracy. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009). Without other evidence, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Although the premise is not entirely clear, complainant seems to further

¹ This complaint was assigned to Circuit Judge Stephen Reinhardt pursuant to 28 U.S.C. § 351(c).

allege that one of the circuit judges violated the law by issuing a ruling in one of his misconduct matters in which he should have been disqualified. Judicial-Conduct Rule 25 provides the guidelines as to whether a judge is disqualified from participating in any misconduct proceeding, and there is no evidence of any irregularity here. See Judicial-Conduct Rule 25. To the extent that complainant is alleging that the judge issued an erroneous order, this allegation relates directly to the merits of the judge's ruling and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

To the extent that complainant continues to allege that a district judge made improper rulings in his civil case, these allegations have been dismissed as merits-related and unsupported in prior rulings, and thus no further action is necessary. See Judicial-Conduct Rule 11(c)(1)(C); In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. Jud. Council 2009).

Complainant has previously filed four judicial misconduct complaints based on nearly identical claims which were dismissed because the charges were merits-related and unfounded. See In re Complaint of Judicial Misconduct, Nos. 12-90006 to 12-90017 (9th Cir. Jud. Council 2012); In re Complaint of Judicial Misconduct, No. 11-90131 (9th Cir. Jud. Council 2011); In re Complaint of

Judicial Misconduct, No. 11-90084 (9th Cir. Jud. Council 2011); In re Complaint of Judicial Misconduct, No. 11-90039 (9th Cir. Jud. Council 2011). Complainant was cautioned previously that a “complainant who [files] repetitive, harassing, or frivolous complaints . . . may be restricted from filing further complaints.”

Complainant is therefore ordered to show cause why he should not be sanctioned by an order requiring him to obtain leave before filing any further misconduct complaints. See Judicial-Conduct Rule 10(a); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009). Complainant has thirty-five days from the filing of this order to file a response, which will be transmitted to the Judicial Council for its consideration.

DISMISSED and COMPLAINANT ORDERED TO SHOW CAUSE.